IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 24TH SEPTEMBER 2007 / 2ND ASWINA 1929

Bail Appl..No. 5651 of 2007()

CRIME NO. 180/07, KADAKKAL POLICE STATIOIN
CMP.7540/2007 of J.M.F.C.-II,KOTTARAKKARA

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PETITIONER/PETITIONER:

ABDUL RAHIM, S/O. IBRAHIM KUNJU,
PUTHUVALVILA VEEDU, PATTANIMUKKU, CHUNDA MURI,
ITTIVA VILLAGE.

BY ADV. SRI.DINESH R.SHENOY

RESPONDENTS: COUNTER PETITIONER:

STATE OF KERALA,
REP. BY THE PUBLIC PROSECUTOR,HIGH COURT OF KERALA
REPRESENTING THE CIRCLE INSPECTOR OF POLICE,
KADAKKAL POLICE STATION.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 24/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 5651 of 2007

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Dated this the 24th day of September, 2007

O R D E R

Application for regular bail. The petitioner faces allegations, inter alia, under Sections 120B and 364A I.P.C. The petitioner is the brother-in-law of one Shajahan, the brother of the defacto complainant. There was some disputes between the petitioner herein and the said Shajahan relating to an item of property. On account of such animosity, the defacto complainant was allegedly kidnapped/ abducted by some accused persons as abetted by the petitioner, who had allegedly hatched a conspiracy along with the co-accused to commit the crime. The alleged incident took place on 19.4.2007. The crime was promptly registered at the instance of the wife of the defacto complainant. Investigation is in progress. The victim was released on 22.4.07. The petitioner was arrested on 31.8.2007 and he continues in custody even now.

2. The learned counsel for the petitioner submits that the allegations are totally false. There is bitter animosity arising from a property dispute between one Shajahan, the brother of the defacto

complainant and the petitioner, who is the brother-in-law of the said Shajahan. On the basis of the complaint filed by the petitioner, a crime has been registered and investigation is in progress against the said Shajahan and his two brothers, including the petitioner herein. This crime is a retaliation against the said crime registered, in which the accused persons, including the defacto complainant, were directed to surrender their passports. With vexatious intent, the present allegations have been raised. Some of the accused have already been enlarged on bail as per orders in B.A.Nos. 2801 and 4081 of 2007. The petitioner herein, who has remained in custody from 31.8.2007, may now be enlarged on bail, prays the learned counsel.

3. The learned Prosecutor opposes the application vehemently. He submits that accused 2 to 8 have not been arrested so far. The Investigator may be given some further time in a serious crime like the instant one to complete the investigation after arresting the co-accused also. The petitioner may not, in these circumstances, be granted bail, submits the learned Prosecutor.

4. I have considered all the relevant inputs. The case diary has been perused by me. I have gone through the nature of the allegations raised as

also the nature of injuries which were found on the person of the petitioner, who was allegedly under illegal confinement during the period 19.4.07 to 22.4.07. I take note of the fact that some of the co-accused have already been enlarged on bail. I take note of the fact that the petitioner is the principal accused, at whose instance the crime was allegedly committed by the other accused engaged by him.

5. However, I find merit in the submission of the learned counsel for the petitioner that the petitioner need not be detained indefinitely and endlessly to facilitate completion of the investigation. Subject to appropriate conditions, which shall ensure the interests of a fair, efficient and expeditious investigation, I am satisfied that the petitioner can be directed to be released on bail now, notwithstanding the opposition of the learned Prosecutor. If the Investigator is granted reasonable time to complete the investigation, I am satisfied that the interests of justice shall be satisfied.

6. In the result:

1) This application is allowed.

2) The petitioner shall be released on bail on the following terms and conditions.

(a) The petitioner shall not be released from custody on the strength of this order prior to 6.10.2007. The Investigators shall in the meantime make every endeavour to complete the investigation.

(b) He shall execute a bond for Rs.1,00,000/- (Rupees one lakh only) with two solvent sureties each for the like sum to be satisfaction of the learned Magistrate.

(c) He shall make himself available for interrogation before the Investigating Officer on all Mondays, Wednesdays and Fridays between 10 a.m. and 12 noon for a period of three months from the date of his release and thereafter as and when directed by the Investigating Officer in writing to do so.

(R. BASANT)
Judge

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